

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

Chambers of
BENSON EVERETT LEGG
United States District Judge

101 West Lombard Street
Baltimore, Maryland 21201
(410) 962-0723

200 Feb 7 2001
February 7, 2001

MEMORANDUM TO COUNSEL RE:

H. Mark Hamlet, et al. v.
Town of St. Michaels, et al.
Civil #L-00-3173

Dear Counsel:

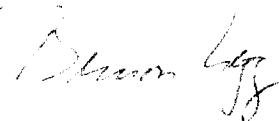
Now pending is the Motion to Dismiss filed by defendant, the Town of St. Michaels, which contends that (i) Mark Hamlet was primarily negligent as a matter of law and (ii) that Hamlet failed to comply with the notice requirement of § 5-304(b) of the Local Government Tort Claims Act.

Addressing the second point, Mr. Hamlet has now filed an amended complaint that apparently shows that he gave the required notice to the Town before filing suit. As to the first argument, it is my view that the issue of negligence should be brought up in a motion for summary judgment after discovery. From the bare pleadings, I cannot determine whether the condition of the ramp/gap was unreasonably dangerous. Discovery will shed light on this subject.

Accordingly, the Motion to Dismiss is hereby DENIED, although without prejudice to the Town's ability to file a subsequent motion for summary judgment at the close of discovery. The parties are directed to proceed to discovery pursuant to the enclosed scheduling order.

Despite the informal nature of this memorandum, it shall constitute an Order of Court and the Clerk is directed to docket it accordingly.

Very truly yours,



Benson Everett Legg

Enclosure
c: Court file